1938 General Letter No. 51

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D.C.

February 23, 1939.

To All Administrative Officers and State Committeemen,
Agricultural Adjustment Administration,
Southern Region:

The attention of this Division has been directed to the fact that in some cases the audit by the State Committee of county office records and reports pursuant to Cotton 208-Part IV-SR is delayed because the county office had not attempted previously to reconcile the records of cotton production as reported by the ginners on forms Cotton 216 with the individual farm records of cotton production as shown on forms Cotton 251 and forms Cotton 254.

In reconciling the individual farm records of cotton production with the ginners' reports, it is suggested that the county offices prepare Part I and, if necessary, Part II of the attached form, which has been designated for short reference as form Cotton 216-A, with respect to each gin located in the county and with respect to each gin located in other counties for which extracts were received. The totals shown on line 13 of Part I of form Cotton 216-A will contain the information to be shown in columns 1, 2, 4, 5, and 6 of form Cotton 283 for the particular gin. If the gin was located within the county and extracts were furnished to other counties, Part II of form Cotton 216-A should be prepared for each county which was furnished extracts from the particular gin. The sum of the totals on lines 13 of the last column of Part II of forms Cotton 216-A for all counties to which extracts were forwarded from the particular gin should be entered in the space provided in line 14 of Part I of form Cotton 216-A and this entry will be the amount to be shown in column 7 of form Cotton 283 for the particular gin. The entry to be shown in line 15 of Part I of form Cotton 216-A should be determined by subtracting the entry on line 14 thereof from the entry on line 13 of the last column thereof and this result will also be the entry to be shown in column 8 of form Cotton 283 for the particular gin. Where extracts were received for gins located in other counties, Part I of forms Cotton 216-A should be executed, but Part II of form Cotton 216-A will not be necessary.

Parts I and II of forms Cotton 216-A for a particular gin should be fastened together and retained in the folder for the gin.

The sum of the entries on line 15 of Part I of all forms Cotton 216-A should equal the sum of the following: (1) the sum of the entries in column (33) of forms Cotton 251, plus (2) the sum of the entries on line (a) of column (20) of all forms Cotton 254. If the county offices have not already totaled the entries in column (33) of form Cotton 251 and on line (a) of column (20) of form Cotton 254, they should do so at once in order that they may determine whether the records in this connection are in balance and make any necessary corrections prior to the time the county office is audited by the State Committee.

It is believed that the preparation of forms Cotton 216-A in advance of the audit by the State Committee will expedite the audit materially and should place the county office in a position to be of assistance to the various ginners in preparing their reports to the Bureau of the Census pursuant to the Act of Congress of June 14, 1938 (Public No. 600, 75th Congress), which was referred to in our 1938 General Letter No. 37, issued October 10, 1938.

A supply of form Cotton 216-A will not be furnished by this Division.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.

Attachments.

Cotton 216-A
U. S. Department of Agriculture
Agricultural Adjustment Administration
February 1939

Gin Serial No. _____

SUMMARY OF FORMS COTTON 216

Part I - Total Cotton Ginned

Report No.	Total gross weight	No. of bales		Weight of bagging and ties	Total net weight
		Square	Round		
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13 Total					

14. Total net weight shown on extracts to other counties from this gin _____

15. Total net weight ginned for farms in this county by this gin _____

16. Total amount of postage expenses incurred and paid $ _____

Cotton 216-A
U. S. Department of Agriculture
Agricultural Adjustment Administration
February 1939

Gin Serial No. _____

SUMMARY OF FORMS COTTON 216

Part II - Extracts Prepared In This County For _____ County

Report No.	Total gross weight	No. of bales		Weight of bagging and ties	Total net weight
		Square	Round		
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13. Total					

1938 GENERAL LETTER NO. 52

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D. C.

February 27, 1939

To All Administrative Officers and State Committeemen,
Agricultural Adjustment Administration,
Southern Division:

Your attention is called to the provisions of Section 8, subsection (c)(4) of the Soil Conservation and Domestic Allotment Act, as amended by Section 101 of the Agricultural Adjustment Act of 1938, which reads as follows:

> "Notwithstanding any other provision of this subsection, if, for any reason other than flood or drought, the acreage of wheat, cotton, corn, or rice planted on the farm is less than 80 per centum of the farm acreage allotment for such commodity for the purpose of payment, such farm acreage allotment shall be 25 per centum in excess of such planted acreage."

This provision of the Act is incorporated in the applicable parts of section IV of Southern Region Bulletin 201. Further reference is made to this provision in Southern Region Bulletin 205, wherein it is stated (in connection with a producer's failure to plant as much as 80 percent of his cotton, wheat, or rice acreage allotment because of drought) that "The allegation of drought is not acceptable unless it is established that the drought was general in the locality in question and also that it prevented other producers in the same locality from planting such crop."

We believe that it would be desirable at this time to contact county committees regarding the application of this provision. This will make for more uniform administration. Some committees may be reluctant to apply the provision or may be lenient in making the determination that flood or drought affected plantings. The fact should be clearly understood by committeemen that this provision does not apply unless it was too dry to plant or that it was not possible to plant because of flood. Adverse weather conditions which may have affected growing conditions or harvest should not be considered. Also, the provision does not apply if the failure to plant was due to such causes as the failure to get a tenant,

the fact that the mule died, or the farmer was unable to get seed, etc. In this connection, it would be well to point out that the entire acreage which was seeded to cotton is considered as acreage planted to cotton for the purpose of the 80 percent provision, irrespective of whether such cotton reached the bolling stage.

On November 1 a letter was addressed to the administrative officers in which an approach to this problem was suggested. The letter is as follows:

> "Reference is made to the eighth paragraph beginning on page 6 of Southern Region Bulletin 205, Part II, in which it is stated (in connection with a producer's failure to plant as much as 80 percent of his cotton, wheat, or rice acreage allotment because of drought) that 'The allegation of drought is not acceptable unless it is established that the drought was general in the locality in question and also that it prevented other producers in the same locality from planting such crop.'
>
> "In order that the Examining Unit in the State office may have sufficient information for passing on Forms SR-214, 'Application for Payment', in cases where drought is the alleged reason for failure to plant as much as 80 percent of the cotton, wheat, or rice allotment, it is requested that the State committee make a determination and prepare lists of the counties (if any) in the State in which there was a drought of sufficient duration in 1938 to prevent producers from planting each of the crops in question.
>
> "It is suggested that the best approach to the problem might be through the county committees, the State committee requiring the county committee of each county affected by drought in 1938 to submit its recommendation in the matter. The State committee should then review the county committee's recommendation and if they concur in such recommendation they should advise the Examining Unit in the State office that drought is an acceptable reason for failure to plant as much as 80 percent of the particular acreage allotment(s) in such county in 1938."

It will be appreciated if the administrative officer in each State will immediately submit to this office a report of any action taken along the lines suggested in the above-quoted letter. In addition, a report should be submitted to this office on the first day of each month, the first report being as of March 1, 1939. The report should show for each county in your State:

1. The name of the county.

2. Total of all applications for payment under the 1938 Agricultural Conservation Program certified to General Accounting Office.

3. The number of applications certified to General Accounting Office on which the acreage planted to rice, wheat, or cotton was less than 80 percent of the respective allotments.

4. The number of applications certified to General Accounting Office on which the acreage planted to rice, wheat, or cotton was less than 80 percent of the respective allotments and payment was based on 1-1/4 times the planted acreage.

This problem should be brought to the attention of county committeemen immediately.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.

1938 General Letter No. 53.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D.C.

March 9, 1939.

To All Administrative Officers and State Committeemen,
Agricultural Adjustment Administration,
Southern Region:

The following questions and answers relative to assignments of agricultural conservation payments under section 8(g) of the Soil Conservation and Domestic Allotment Act, as amended, are submitted for your information.

Question 1: Where the assignor cannot be located or refuses to sign the application for payment, is there any way by which the assignee can secure the amount to which he would have been entitled had the assignor signed the application?

Answer: In order that an assignee may receive the payment assigned to him, the assignor must first establish his eligibility to receive the payment and must make application therefor. Under the agricultural conservation programs no formal contracts are entered into with producers. Conditions under which payments will be made are announced at the beginning of the year and, in most cases, the only formal document executed by the producer is the application for payment, which contains the data and representations necessary for the determination of the amount of payment earned by him. In accordance with the provisions of the Act of Congress and usual Government procedure, in order for a payment to be made to a producer it is necessary that he execute an application for payment and certify to the accuracy of the representations and data set forth therein. This procedure has been followed in connection with all agricultural conservation programs. The authorization for the assignment of payments does not alter in any way the basic requirement that in order to qualify for a payment the producer must submit an application for payment.

That there might be no misunderstanding on this point, the instructions relating to assignments provide that no assignment shall become effective insofar as the United States is concerned until application for payment is made by the assignor, his heirs, or a fiduciary who by virtue of his office succeeds to the right of the assignor to make such application and it is administratively determined that such payment is to be made. This provision is in paragraph A, Section VI, of ACP-70, "Instructions Relating to Assignmentsand Use of Form ACP-69".

Question 2: Where the administrator of the estate of an assignor who died before signing the application for payment refuses to recognize the assignment made by the deceased producer, is there any way by which the assignee can secure the amount to which he would have been entitled had the assignor signed the application?

Answer: Where a producer has died, after making the assignment but prior to the time for signing the application for payment, the assignment will be considered effective and binding upon the administrator of the estate of the assignor. This provision, requiring that the application show the assignment made by the deceased producer, is contained in the last paragraph of section I of Form ACP-69 and reads in part as follows: "All items and conditions of this Form ACP-69..... shall be effective in favor of and binding upon the Assignor and the heirs, executors, administrators, and assigns of such Assignor."

Although it is unnecessary for the administrator in this case to sign Form ACP-69, it is necessary that an application for payment be executed and submitted by the administrator before any payment may be made. The Agricultural Adjustment Administration, of course, cannot require the administrator to sign the application for payment. As an officer of the court, he is charged with the duty of administering and settling the estate of the deceased producer, and it would seem that it would be advantageous to the estate to submit an application for payment and thus receive the benefit of the payment by having an obligation of the estate to the assignee discharged.

In connection with both questions 1 and 2 it should be borne in mind that, whether the assignor refuses to execute and submit an application for payment, or has died and the administrator of his estate refuses to submit such application, the assignee may pursue whatever remedy, such as a suit for specific performance or an action in damages, is afforded him under State law.

Question 3: Is an assignment of an agricultural conservation payment valid when made by a tenant or sharecropper to his landlord in order to obtain the landlord's waiver of rent so as to secure a loan for the purpose of making the 1939 crop?

Answer: Under the provisions of the Act a payment which may be made to a farmer may be assigned only as security for cash or advances to finance making a crop. To finance making a crop means (1) to finance the planting, cultivating, or harvesting of a crop, including the purchase of equipment required therefor; (2) to provide food, clothing, and other necessities required by the assignor or person dependent upon the assignor for thepurpose of making a crop; or (3) to finance the carrying-out of soil-building or range-building practices. It is provided in ACP-70 that nothing contained therein shall be construed to authorize an assignment given to secure the payment of the whole or any part of the purchase price of a farm or the payment of the whole or any part of a cash or fixed commodity rent for a farm. An assignment given under the circumstances recited in the question is not valid.

Question 4: What procedure should be followed in a case where the county office has accepted an assignment which covers payments due on two or more separate farms, but is otherwise valid?

Answer: A Form ACP-69 should be executed to cover each farm. There should be attached to each such Form ACP-69 a copy of the original Form ACP-69 together with a statement of the facts in the case.

Question 5: May the landlord who has not received the rent from his cash tenant obtain an assignment of the tenant's agricultural conservation payment and apply to the tenant's rent account the payment due such tenant?

Answer: Under the provisions of the Act a payment may be assigned only as security for cash loaned or advances made to finance the making of a crop.

Regardless of any payment which the tenant may be entitled to receive, the Agricultural Adjustment Administration has no authority to withhold payment from the tenant in an effort to settle a private matter existing between him and his landlord. The failure or refusal to pay cash rent to the landlord is a private matter between landlord and tenant, and is therefore not a matter in which the Government can properly be involved.

Question 6: Why must each assignment on Form ACP-69 be witnessed by certain designated officials?

Answer: Section 8(g) of the Act provides in pertinent part as follows:

> "Such assignment shall be signed by the farmer and witnessed by a member of the county or other local committee , or by the treasurer or secretary of such committee, and filed with the county agent or the county committee."

It was anticipated that, under this provision, the committeeman or treasurer or secretary would act not merely as a disinterested witness to a signature but that he would act as the required witness only after satisfying himself, wherever possible, that thefacts in the case were such that the assignment is valid and correct.

Question 7: May two or more persons who by separate transactions have advanced cash or supplies to a producer be shown on Form ACP-69 as joint assignee?

Answer: Two or more persons may be shown jointly as assignees only where such persons actually jointly furnished all the cash or supplies. If they are members of a partnership which did so, the assignment should run in the name of the partnership rather than in the names of the persons composing it.

Question 8: Are assignments of 1938 agricultural conservation payments acceptable if executed at this time on approved forms as security for advances made in the spring of 1938?

Answer: No. In view of the long-continued policy of the Government not to act as a collecting agency for private persons and in view of prior statutes restricting assignments of claims against the Government, it is felt that the provisions of the Act providing for assignments are merely permissive and contemplate that assignments should be recognized only if timely made and executed in accordance with the statute and instructions concerning the making of them.

At the time instructions and assignment forms were made available, which was in the spring of last year, producers and creditors had every reason to suppose that assignments should be filed promptly after advances were made. The instructions, which were issued in April , 1938, contemplated that the assignments should be made at the time of making advances. It is provided in the instructions that only the first assignment made and properly filed would be recognized. The instructions further provide that an assignment may be made to secure advances to loans to finance the making of a crop in the year current and shall not be used to secure any preexisting indebtedness. See 1938 General Letter No. 42.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.

1938 General Letter No. 54.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D. C.

April 3, 1939

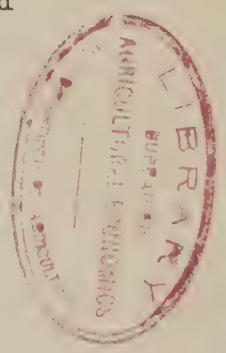
To All Administrative Officers and State Committeemen,
Agricultural Adjustment Administration,
Southern Region:

In connection with determining eligibility of applicants for 1937 Cotton Price Adjustment Payments and 1938 Agricultural Conservation Payments, a question has arisen as to the status of cotton producers on a farm on which there has been an overplanting of cotton.

Any person who knowingly planted cotton on his farm in 1938 on acreage in excess of the 1938 farm acreage allotment for cotton established under the 1938 Agricultural Conservation Program is not eligible to receive any payment under the 1938 Agricultural Conservation Program. Any person who knowingly planted cotton on his farm in 1938 on acreage in excess of the 1938 farm acreage allotment for cotton established under the 1938 Agricultural Conservation Program, or under Section 344 of the Agricultural Adjustment Act of 1938 as amended, whichever is the lesser, is not eligible to receive any payment under the 1937 Cotton Price Adjustment Payment Program.

In cases where the planting (seeding) of cotton on the farm was completed after notice of the cotton acreage allotment was mailed to the operator, the procedure set out below will be followed in determining whether a producer knowingly overplanted cotton in 1938.

1. In any case where the acreage planted to cotton on the farm exceeds the cotton acreage allotment established for the farm, all producers entitled to share in the cotton crop, or its proceeds, will be presumed to have knowingly planted, or caused to be planted, on the farm cotton in excess of the cotton acreage allotment established for the farm.



2. The presumption, raised as described in 1 above, may be rebutted --

(a) as to any producer, by proof that the excess acreage was planted because of a bona fide mistake as to the number of acres in the tract(s) planted to cotton; or

(b) as to any producer who did not participate in the planting of the cotton (either by his own labor or by labor procured by him for that purpose), by proof that the excess acreage was planted without his knowledge and consent, or, if planted with his knowledge but without his consent, by proof that he made every reasonable effort to prevent the planting

of cotton in excess of the cotton acreage allotment for the farm.

3. Satisfactory rebuttal shall excuse each producer to whom the rebuttal is applicable.

Where the check of compliance showed that the acreage planted to cotton exceeded the cotton acreage allotment, a presumption was raised against all cotton producers on the farm. However, this presumption is not conclusive, and a satisfactory rebuttal may be made as provided in 2 above. Producers should, of course, be afforded an opportunity of being heard and of presenting proof with respect to any pertinent matters.

The provisions of 2(a) above apply to all the farm's cotton producers and permit them to rebut the presumptions raised against them by proving that they were honestly mistaken about the number of acres in the tracts planted to cotton. Each cotton producer is required to exercise reasonable diligence in determining whether the farm is being overplanted. As a producer who is actually on the farm can, with a reasonable degree of diligence, inform himself of the number of tracts planted to cotton, it is not meant that such a producer may excuse himself by proving that he did not know how many tracts were planted to cotton, but only by proving that he had an honest but mistaken belief concerning the number of acres in each one of the tracts planted, and the overplanting took place because of that mistake. For example, in the case of a farm with an allotment of 15 acres, if the producer knows that fields A, B, and C are being planted and he honestly believes, because of a former survey, or deeds or other information upon which a reasonable person would rely, that each field contains 5 acres, and it is subsequently ascertained that field C contains 6 acres, he should be excused. But if the producer thought that fields D, E, and F (each actually containing 5 acres) were being planted, he would not under this rule be able to rebut the presumption raised against him if field G were also planted.

The provisions of 2(b) apply only to a person who is classed as a producer because he has an interest in the crop, or its proceeds, and who does not take part in the planting, either by doing it himself or by having some other person do it for him under his direction and control. In addition to the provisions of 2(a), such a producer may also avail himself of the provisions of 2(b) by showing that he did not know how many tracts were planted to cotton, if he also shows that he exercised reasonable diligence in trying to ascertain the number of such tracts. Such a producer may also excuse himself, even when he knew that the farm was being overplanted,

by showing that he did not consent to the overplanting. As, in the latter case, consent will be presumed from a failure to make reasonable efforts to prevent the overplanting, such a producer must show that he made every reasonable effort to prevent the overplanting.

Where a producer is excused under the conditions outlined in 2(b) above, a statement by the producer of the facts in the case should be attached to each application for payment under the 1938 Agricultural Conservation Program covering a farm with respect to which he is excused under the provisions of said paragraph 2(b) and such statement must be approved by at least two members of the county committee.

The procedure outlined above will be followed in determining whether a producer knowingly overplants cotton in 1939.

There will be issued at an early date instructions to be followed in determining whether a farm was knowingly overplanted in cases where notice of the farm cotton acreage allotment was not mailed to the operator prior to completion of planting.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.

1938 General Letter No. 55

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
SOUTHERN DIVISION

April 19, 1939

To All Administrative Officers and State Committeemen,
Agricultural Adjustment Administration,
Southern Division:

RE: Eligibility for 1937 CAP and 1938 ACP payments in cases where acreage devoted to cotton exceeds original 1938 cotton allotment, which was in error, but corrected 1938 allotment exceeds the acreage devoted to cotton.

The question has been raised as to the procedure to be followed in cases where the 1938 cotton acreage allotment originally established for a farm was in error and a corrected 1938 cotton acreage allotment, which is in excess of the erroneous allotment and which equals or exceeds the acreage devoted to cotton on the farm in 1938, has been established for the farm and payments under the 1937 Cotton Price Adjustment Program were withheld from one or more producers on the farm under the original applications because the farm was determined to have been knowingly overplanted.

In such cases performance with respect to cotton should be measured by the official cotton acreage allotment established in accordance with the provisions of the 1938 Agricultural Conservation Program. If the cotton acreage allotment originally determined for the farm was found to be in error and was corrected in accordance with the instructions for correcting cotton allotments, the corrected allotment is the official cotton allotment for the farm. If the acreage devoted to cotton in 1938 does not exceed the official cotton acreage allotment for the farm, the farm is in performance with respect to cotton irrespective of any determination upon the basis of the erroneous allotment. The interested producers on such farms will be entitled to receive the 1937 cotton price adjustment payment and also the 1938 agricultural conservation payment, if earned; although they admit that they knowingly overplanted the erroneous cotton acreage allotment.

In each of these cases, before payment is made, it should be determined that the corrected 1938 cotton acreage allotment is the official allotment approved by the State office and that the acreage planted to cotton in 1938 did not exceed the official cotton acreage allotment determined for the farm under the 1938 program.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.

1938 General Letter No. 56

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Washington, D. C.

April 26, 1939.

To All Administrative Officers and State Committeemen,
Agricultural Adjustment Administration,
Southern Region:

Re: Reports of producers knowingly overplanting in the county and having an interest in farms in other counties in the State or in another State.

Section XI E of Southern Region Bulletin 201, as amended, provides that any person who knowingly planted cotton on one farm in 1938 on acreage in excess of the farm cotton acreage allotment for 1938 is ineligible to receive any 1938 agricultural conservation payment with respect to that farm or any other farm wherever located. For example, if in 1938 a producer was interested in a farm in Texas and another in California and he knowingly planted cotton or caused cotton to be planted on the farm in Texas in excess of the farm cotton acreage allotment, he thereby became ineligible to receive any 1938 agricultural conservation payment with respect to either the farm in Texas or the farm in California.

In order to carry out the provisions of Section XI E it is necessary that you request each county in your State in which cotton was planted in 1938 to prepare from its records of producers who knowingly overplanted their 1938 farm cotton acreage allotments in the county a list containing the following information and forward it to your office at the earliest possible date:

1. The name and present address of each such cotton producer in the county (who had an interest in 1938 in any farm(s) located in other counties in the State or in another State.)

2. The work sheet serial numbers of all farms in which the producer is interested in the county. The work sheet serial number of each farm which was knowingly overplanted should be followed by the word "knowingly overplanted".

3. The location, if such information is obtainable, of the farm(s) in which the producer had an interest in 1938 in other counties in the State or in other States. The name of the town, city or county, together with the name of the State where each such farm is located, will be sufficient description of location.

Each county should be instructed to submit supplemental lists covering cases not now shown on the list for the county.

The disposition which should be made of the list after it is received in the State office can best be explained by means of an illustration. Suppose that Cherokee County, Texas, reports that John Brown knowingly overplanted his cotton acreage allotment in such county and that he had an interest in 1938 in a farm in Hunt County, Texas, a farm in Webster Parish, Louisiana, and a farm in Riverside County, California. Upon receipt of the list from Cherokee County, the name of John Brown would be placed on a "Stop Payment List" (or the Register of Indebtedness) for Hunt and Cherokee Counties, with a cross-reference to the county making the report. A letter would then be addressed to the county office of Hunt County, advising that the County Committee of Cherokee County had determined that John Brown knowingly overplanted his 1938 farm cotton acreage allotment and requesting (1) that the county committee determine and advise the State office whether the John Brown reported by Cherokee County has an interest in farm(s) located in Hunt County, and (2) if he has, that the State office be informed of the work sheet serial number of each farm in Hunt County in which John Brown had an interest in 1938, and (3) that any 1938 agricultural conservation or 1937 cotton price adjustment checks received for John Brown be returned to the Disbursing Office or, if already delivered, that the State office be advised of the fact.

The Cherokee County report also shows that John Brown had an interest in 1938 in a farm located in Webster Parish, Louisiana, and a farm located in Riverside County, California. Since these farms are located outside the State, the Texas State office should forward a letter, in duplicate, to the Director of the Southern Division advising that the County Committee of Cherokee County, Texas, has determined that John Brown knowingly planted or caused to be planted in 1938 cotton in excess of his farm cotton acreage allotment for 1938 (specifying the work sheet serial number of each farm which was knowingly overplanted) and that it has been reported that he had an interest in 1938 in a farm located in Webster Parish, Louisiana, and a farm located in Riverside County, California. Upon receipt of the letter, the Director of the Southern Division will transmit the information to the Louisiana State office. The Louisiana State office shall proceed in the same manner as if the information were contained in a report received from a parish office in Louisiana. The Director of the Southern Division will also transmit the information to the Director of the Western Division in order that payments with respect to the California farm may be withheld or, if already made, recovered.

You are requested to institute the above procedure in your State at the earliest possible date.

I. W. Duggan

I. W. Duggan,
Director, Southern Division.

1938 GENERAL LETTER NO. 57

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
Southern Division

May 12, 1939

To All Administrative Officers and State Committeemen,
Agricultural Adjustment Administration,
Southern Division:

Re: Knowingly overplanting

PART I - PROCEDURE FOR MAKING DETERMINATIONS

The procedure for determining whether a producer knowingly planted cotton or caused cotton to be planted in 1938 in excess of the cotton acreage allotment established for the farm for 1938 in cases where notice of the allotment was mailed to the operator prior to the completion of planting is set forth in 1938 General Letter No. 54. The procedure set out below in this Part I will be followed in determining whether producers knowingly overplanted in cases where notice of the allotment was not mailed to the farm operator prior to the completion of planting.

1. In any case where the planting of cotton on the farm was completed prior to the mailing of notice of the cotton acreage allotment established for the farm, the county committee shall determine that the farm was knowingly overplanted if it finds, with respect to such farm, that:

(a) The number of acres planted to cotton on the farm exceeded the number of acres which the producer might reasonably have expected to be allotted to the farm, or

(b) Where, through an error or an oversight, no notice was mailed, but the fact that cotton acreage allotments had been established was known to the producer and, without making a reasonable effort to ascertain the amount of the allotment for his farm, he planted a number of acres which exceeded the acreage allotment for his farm.

2. Whenever, as provided in 1 above, the county committee determines that the overplanting was knowingly done, all producers entitled to share in the cotton crop, or its proceeds, will be presumed to have knowingly planted, or caused to be planted, on the farm, cotton in excess of the cotton acreage allotment established for the farm.

3. The presumption raised as described in 2 above may be rebutted by any producer who did not participate in the planting of cotton (either by his own labor or by labor procured by him for that purpose) by proof that the excess acreage was planted without his knowledge and consent, or, if planted with his knowledge but without his consent, the proof that he made every reasonable effort to prevent the planting of cotton in excess of the cotton acreage allotment for the farm.

4. Satisfactory rebuttal shall excuse the producer to whom the rebuttal is applicable.

It is to be observed that the presumption raised as described in 2 above arises only when the acreage planted to cotton in 1938 exceeded the cotton acreage allotment and the facts specified in 1(a) or 1(b) are found to exist. This differs from the presumption raised in the cases covered by 1938 General Letter No. 54, wherein the presumption is raised by the mere fact that the planted acreage exceeds the cotton acreage allotment for the farm.

The rule in 1(b) above is applicable only where the cotton acreage allotment for the farm had been established but through error or oversight notice of the allotment was not mailed before completion of planting and the producer knew that cotton acreage allotments had been established in the community in which his farm is located but he made no reasonable effort to ascertain the amount of his allotment before the completion of the planting of cotton on his farm in 1938. If he made a reasonable effort to ascertain the amount of his allotment but failed to obtain this information, the case should be decided in accordance with the rule stated in 1(a) above. If he found out the amount of the cotton acreage allotment prior to completion of planting of cotton on the farm, the case should be decided in accordance with the procedure set forth in 1938 General Letter No. 54, even though no notice was mailed to him.

In deciding whether the number of acres planted to cotton on the farm exceeded the number of acres which the producer might reasonably have expected to be allotted to the farm, the county committee should carefully examine all pertinent records for the farm and consider all of the circumstances, both favorable and unfavorable to the producer. In view of the exceptionally large crop produced in 1937 and since information was given out before planting time in 1938 to the effect that generally allotments in 1938 would be less than the acreage which could have been planted in 1937 in order for the farm to be in substantial compliance with the 1937 Agricultural Conservation Program, producers might

have expected in most cases that they should make some reduction in acreage planted in 1938 as compared with the acreage which could have been planted in 1937 in order for the farm to earn maximum payment with respect to cotton. It should be kept in mind that in most counties in the Cotton Belt the county allotment for 1938 was approximately 40 percent below the 1937 planted and diverted acreage in the county. If this fact was generally known among farmers in the county prior to planting time, it would hardly seem consistent, in the absence of facts establishing that an honest effort was made to comply, for a producer to have planted in 1938 more than 60 percent of the 1937 planted and diverted acreage on his farm and also contend that he planted within what he might reasonably have expected to receive as an allotment for his farm for 1938. However, if it was not generally known before planting time that the county allotment was or would likely be approximately 40 percent below the 1937 planted and diverted acreage, a producer, under the circumstances of his case, might reasonably have expected his 1938 cotton acreage allotment to approximate 65 percent of the cotton base acreage which was or could have been established for his farm under the 1937 Agricultural Conservation Program, and in some few cases to exceed this figure slightly.

PART II - PROCEDURE FOR CLASSIFYING AND HANDLING DETERMINATIONS

In order to assure uniformity of treatment in all areas, it is requested that all cases of overplanting be reviewed and that the procedure set out below be followed in classifying and handling cases:

1. In those cases where notice of the farm cotton acreage allotment was not mailed prior to the completion of planting, if the acreage planted to cotton in 1938 does not exceed both

(a) 70 percent of the 1937 planted and diverted acreage, and

(b) the 1938 allotment by the larger of either

(1) 3 acres for farms with allotments of not more than 30 acres, or

(2) the smaller of 25 acres or 10 percent of the allotment for farms with allotments in excess of 30 acres,

it would seem that the farm should not be considered as having been knowingly overplanted if it clearly appears from all the circumstances that an honest effort was made to comply in 1938.

2. If the acreage planted to cotton exceeds both (a) and (b) of the preceding paragraph, it would seem that the farm should be considered as having been knowingly overplanted, unless other facts are definitely established which tend to show that the producer(s) on the farm might reasonably have expected to receive an allotment equal to or in excess of the acreage planted to cotton and that under the circumstances an honest effort, such as making a substantial reduction in the acreage planted in 1938 as compared with the acreage planted in 1937, was made to comply in 1938. In each case where the acreage planted to cotton in 1938 exceeded both (a) and (b) of the preceding paragraph and the county committee determines that the farm was not knowingly overplanted, the committee shall forward to the State committee a report, in duplicate, setting forth the reasons for determining that the allotment was not knowingly overplanted and the following facts:

(a) The cropland as measured under the 1937 program. (Give estimate used to establish 1938 cotton allotment if farm not measured.)

(b) The cropland as measured under the 1938 program, less any new ground broken out in 1938. (include tilled acreage in commercial orchards.)

(c) The 1937 base cotton acreage which was or could have been established for the farm under the 1937 Agricultural Conservation Program. (Give base determined under 1937 Cotton Price Adjustment Payment Plan if work sheet was not filed in spring of 1937.)

(d) The acreage planted to cotton in 1935, 1936, 1937, and 1938 (indicate whether measured or reported). If measured, give type or measurement each year. Also, give number of acres of cotton disposed of in 1938, if any.

(e) The cotton acreage diverted for payment under the 1936 and 1937 programs.

(f) The date the notice of the allotment was mailed to the farm operator.

(g) The approximate date the planting of cotton on the farm was completed.

(h) The amount of the 1938 cotton allotment as set forth in the original notice to the farm operator. The date of mailing and the amount of the allotment, if a subsequent notice containing a different allotment, was mailed to the farm operator. The final correct allotment should be identified as such.

(i) The 1938 cotton allotment, the 1938 cotton acreage, and the cropland for adjoining farms.

3. It will not be necessary for the county committee to make another determination on those cases where notice of the allotment was mailed prior to completion of planting of cotton in 1938 and the county committee determined in accordance with 2(b) of 1938 General Letter No. 54 that the allotment was not knowingly exceeded. However, where notice of the allotment was mailed prior to completion of planting and the county committee determines in accordance with 2(a) of 1938 General Letter No. 54 that any producers on the farm did not knowingly overplant for the reason that the planting of the excess acreage was due to a bona fide mistake as to the number of acres in the tract(s) planted to cotton, the county committee shall forward to the State committee a report, in duplicate, for each such farm on which the acreage actually planted exceeds both (a) and (b) of paragraph 1 of this PART II. The report shall set forth fully the facts and the reasons for the determination.

The State committee should carefully consider each case specified in 2 and 3 above of this Part II where the county committee has determined that the allotment was not knowingly overplanted. If the State committee determines that the allotment for any such farm was knowingly overplanted, it should so notify the county committee. If the State committee concurs in the county committee's recommendation that the allotment was unknowingly exceeded on any such farm, an individual recommendation to that effect, in duplicate, together with the file on the case, should be forwarded to the Director of the Southern Division. There should accompany each such recommendation a complete explanation as to the reasons for the State committee's decision with respect to the farm. Each such case will be reviewed by the Director of the Southern Division and the State committee notified of his decision.

In cases where the farm operator was officially notified of an incorrect allotment, the final corrected allotment, if larger, should be used in making the determination provided for in this letter. If the final corrected allotment is less than the erroneous allotment, the erroneous allotment shall be used, unless it appears that the producer knew or ought to have known that the erroneous allotment was in fact in error.

If, as a result of following the procedure outlined in this letter or 1938 General Letter No. 54, the allotment for a farm is determined to have been knowingly exceeded and a payment under the 1937 Cotton Price Adjustment Payment Plan, 1938 Agricultural Conservation Program, or 1938 Range Conservation Program has been made to any person who was engaged in the production of cotton on such farm in 1938 and such person was not excused from having knowingly exceeded the allotment on the basis of item 2(b) of 1938 General Letter No. 54 or item 3, Part I, of this letter, the usual procedure should be followed in effecting collection of the erroneous payment.

The procedure contained in this letter and 1938 General Letters Nos. 54, 55, and 56 will also apply to the 1939 Agricultural Conservation and Range Conservation Programs.

Very truly yours,

I. W. Duggan

I. W. Duggan,
Director, Southern Division.